The IDLER

Public Occurrences, Comment, Excursions & Rational Entertainment

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A Constitution For Our Times

BY CHARLES MCDOWELL, JR.

In Which Mr. McDowell Previews a Constitutional Convention; Peter Jay Tells What Happened When One Legislature Was Reapportioned; Sam Darcy Finds Others Joining LBJ in the Credibility Gap; As Well as Several Other Diversions.

No more exhilarating prospect faces the United States than the possibility that we soon may be holding our first constitutional convention since 1787.

Imagine it. The scene is the Houston Astrodome. Hordes of delegates gather from the 50 states. Press and television swarm over the historic assembly. Helicopters, communications satellites and the Goodyear blimp hover in the Texas sky.

Hotels for 500 miles around are filled with partisans plugging for 7,856 constitutional revisions needed to save the Republic. Political scientists, pressure groups and assorted patriots snake-dance in the streets: "Establish the Harvard Faculty as the Fourth Branch of Government!" "Protect LSD in the New Fourteenth Amendment!" "One Man, Five Votes!" "Fight Pornography and Communism--Vote 'No' on the First Amendment!" "Support Your Local Police--Vote 'No' on the Fifth Amendment!"

In a smoke-filled room covered by live television, a drafting committee of poets labors to transcribe the Preamble into verse that will be "pop" enough to be "now" but traditional enough to include a line or two from Walt Whitman.

This second constitutional convention in American history will, of course, be a far cry from the little band of 55 men who met in absolute privacy in Philadelphia in the summer of 1787 and produced what Allan Nevins and Henry Steele Commager have called "the most complex government yet devised by man and also the most nicely poised and guarded."

But this is not 1787; times have changed. Our forefathers in their ingenuity provided for the Constitution to change with the times, and now some of our after-fathers seem to be ready to go at it wholesale.

The Constitution has been amended piecemeal 25 times in the past 180 years, but this has been accomplished each time by two-thirds of each house of Congress proposing a specific amendment and three-fourths of the states ratifying it.

There is, however, another way of amending the Constitution, and it is a whooping, wide-open, no-holds-barred method that has a certain appeal in this day and age. Two-thirds of the state legislatures can petition for a constitutional convention and, theoretically, get one.

With considerable surprise, Congress has discovered that petitions have been received from 32 states--just two less

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than are needed. What the petitioners have in mind is an amendment to modify the Supreme Court's one-man-one-vote standard for apportioning state legislatures.

But once a constitutional convention assembled, it apparently could go to work on the whole Constitution. Heaven only knows what would be produced in the end.

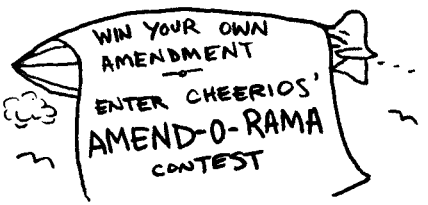
Senator Everett McKinley Dirksen, the ponderous pixie from Illinois, is the chief proponent of the one-man-one-vote modification. He thinks, or pretends to think, that a constitutional convention might be a fine idea. He says he is mostly interested in one-man-one-vote, but he is known to be interested in getting the schools to praying again, and who is to say that he wouldn't take the opportunity to make the marigold the national flower?

Already Washington is stirring with associations of patriots full of brilliant and nutty ideas for bringing the Constitution into dry dock for general overhaul and refitting.

There are also any number of vaguely plausible ideas for preventing it all. Perhaps the best of them is that Dirksen will simply think better of the whole thing--as he so often does in the evolution of some of his plans--and it will be called off.

Some of us find little reassurance in the idea that the convention somehow could be restricted to the one-man-one-vote issue. The convention of 1787 was specifically instructed by the Continental Congress to stick to "the sole and express purpose of revising the Articles of Confederation," but the founding fathers promptly chucked the Articles out of the window and started with a clean sheet of paper.

In any case, it has been a long time since we had a constitutional convention and we may have lost the knack of running one. That led a thoughtful friend of mine to suggest that we import advisors from South Vietnam where an eminently successful constitutional convention recently finished its work. It sounds as reasonable to me as any of the rest of it.



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Not Like the Old Days

By Peter Jay

On the last night of Maryland's General Assembly last March, the bar of the Maryland Inn in Annapolis was propped up until five o'clock in the morning by little groups of bleary-eyed politicians, reporters, lobbyists and other camp followers.

The drinks kept flowing long after the 2 a. m. legal closing hour, for the legislators, after 70 days of making laws for the Free State, weren't above now breaking a few on their own time.

"Just like the old days," said an Eastern Shore survivor of the reapportionment wars, looking down the bar approvingly at a quartet of unkempt freshman delegates from the Washington suburbs who were raising their voices in something resembling a song.

But it really wasn't like the old days at all. For the 1967 Maryland legislature, its 142 delegates and 43 senators elected in accordance with the one-man, one-vote principle for the first time in history, suddenly stepped out of the shadow of its sleepy, rural-dominated past and began to grapple with some of the tough problems of life in a fast-growing Megalopolis.

Before the legislators arrived at the Maryland Inn on March 28, they had voted a far-reaching graduated income tax plan, including a scheme to redistributed state revenues to help bail out strapped Baltimore City and the hard-pressed rural counties.

Even more significantly, the General Assembly set up the machinery for a constitutional convention--already authorized at a referendum the previous autumn but requiring legislative approval--to rewrite the state's lengthy, patchwork 100-year-old charter.

Rural opponents of the convention made determined efforts to undermine it, but for the first time in their memory they didn't have the votes. The bill rolled through both houses, shaking off crippling amendments as it went, and became the first measure signed by the brand-new Republican governor, Spiro T. Agnew--a tough suburbanite with Greek parents and a knack for getting what he wanted from a heavily Democratic legislature.

Besides the constitutional convention and the tax reform package, the reapportioned General Assembly dabbled its toes in the unfamiliar waters of civil rights and enacted the first open occupancy housing measure below the Mason-Dixon line. The bill had several of its sharpest teeth pulled between introduction and enactment--the final version applies only to apartment buildings built after June 1 of this year--but the fact that it passed at all made statehouse observers sit up and take notice.

Early in the session, the legislature struck down Maryland's 300-year-old ban on interracial marriages--one of ten such laws remaining in the United States. Later, it broadened the existing public accomodations law to bring it into line with the federal statute, and tightened controls over block-busting by real estate salesmen and speculators.

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Agnew gained a certain amount of praise from the Maryland press for his role in the productive legislative session. The commendatory editorials were not undeserved by the new governor, but it was reapportionment which opened the door for his programs.

The reapportionment plan was drawn by the legislature itself--under the eye of the Supreme Court, which in the Baker v. Carr and Reynolds v. Sims decisions of 1962 and 1964 placed the writing on the wall for malapportioned state governments--at a special session in 1965. A lower court decision upheld the constitutionality of the plan, which was affirmed by the Maryland Court of Appeals on January 11, 1966.

The key to Maryland's reapportionment was the state senate, which was expanded from 29 to 43 members. Instead of one senator for each of the 23 counties and six for Baltimore City, the plan approved by the Court of Appeals divided the state into 16 senatorial districts. Districts electing more than one senator were required to subdistrict.

In plain terms, what the change meant was this: The four big counties on the fringes of Baltimore and Washington account for about 50 per cent of the state's electorate, but before reapportionment each had a single senator.

Prince George's County, a booming Washington suburb with a population of more than half a million, had the same vote in the Maryland senate as rural Kent County--population 15,000. Needless to say, legislation of special interest to the mildly liberal suburbs did not fare well in the senate.

But in the new senate, elected last fall, the four suburban counties had 19 senators-- a lot of muscle, particularly when coupled with the 12 senators from Baltimore City.

That muscle was flexed even before the Assembly convened on January 18. Senate president William S. James was taken to dinner at a Baltimore restaurant and smilingly told that if he wanted to keep his gavel he would find it a wise move to change the chairman of the powerful Senate Judicial Proceedings Committee. "Well," James said the next day when asked to confirm the power play, "there wasn't anything I could do. They had the votes."

The result of the Baltimore dinner was that Sen. Frederick C. Malkus Jr., the former Judicial Proceedings chairman and an Eastern Shoreman (Dorchester County) of the most curmudgeonly sort, found himself stripped of his post. James, a capable parliamentarian with a trained ear for distant political tunes, kept the gavel. And a liberal Baltimorean, Sen. J. Joseph Curran Jr., took over Malkus's chairmanship.

Reapportionment, however, did not turn the statehouse into a legislative paradise. Bitter quarrels broke out, lobbyists worked their quiet wonders, and strange alliances were sometimes formed. And, as a result, a lot of liberal bills--including a new abortion law, repeal of capital punishment and repeal of the state's anti-subversive loyalty oath for state employees--went down the drain.

Also lost was a resolution to repeal Maryland's 1965 ratification of the proposed Dirksen Amendment--which would cut the legs out from under the Supreme Court's reapportionment decisions by calling a national constitutional convention for the purpose of allowing states to apportion their legislatures on

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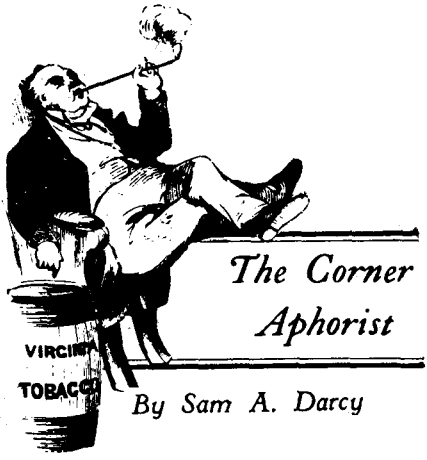
"a basis other than population." Cows, some cynics suggested, or pine trees.

Late in the session, Malkus gave up trying to talk the measure to death ("You're going to vote me down," he said bitterly, "just like you've been doing all year."), and an hour before the statutory midnight adjournment of the 1967 Assembly, the repealer squeaked through the senate. Its supporters rushed it to the house for quick action.

But somehow, the measure didn't get to the desk of the house reading clerk until five minutes of twelve. Speaker Marvin Mandel of Baltimore, smiling from the rostrum at his friends from the Eastern Shore, had a stack of proclamations that just had to be read first--and five minutes was simply not enough time.

But such setbacks were minor. "I think the point is," a suburban Republican said after the session adjourned and he hurried down the street to the Maryland Inn, "that this year we really did something here."

Most of his colleagues agreed. The legislature, which reflected in its membership the living patterns of the citizens of Maryland for the first time in the suburban age had made an important contribution to the progress of the state. But already, politicians and voters alike were looking ahead to 1970, when a new national census would again throw the problems of fair representation and apportionment before the state and the nation.



The Corner Aphorist

By Sam A. Darcy

We've been underwhelmed by a number of letters from readers asking:

Why have we never heard of a self-made woman?

If a person is bashful, does it mean he is full of bash?

If you are not disgruntled, does that mean you are only gruntled?

If we oppose inflation, and oppose deflation, then are we just for flation?

(We must be having inflation now; the $1.00 lunch for which we've been paying $2.00 has just been raised to $3.00.)

If exercise eliminates fat, why do so many chatterboxes have double chins?

Esquire magazine has described certain beautiful actresses who freely yield to the seductions of Hollywood directors and producers. Could one such be described as a piece de non-resistance?

The story is probably apocryphal, but it is told that a southern senator junketing in Germany needed a toilet. He was directed to a sign which read HERREN. He said:

"Yo'll is very kind showing me where her'n is, but can yo'll now show me where his'n is?"

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KIESINGER: Not for 20 years

►The longtime Nazi Kurt Kiesinger, West German Chancellor, speaking in Saarbrucken on January 30th said:

"The Soviet Government accuses the Federal Republic of being aggressive. This is unfair; Germany has not attacked another state for over 20 years."

After all, how long can one hold out? They're suffering withdrawal symptoms.

►LBJ's Infectious Credibility Gap:

►Norman Thomas, who admitted receiving over one million dollars to spend in support of U. S. sponsored elections and fighting Castroism in Santo Domingo, says he didn't know where it came from. It turns out that it came from the CIA. Over $1,000,000.00! If you got that much would you ask? I guess you would.

►Senator Dodd, on the floor of the Senate, denied that he stole any money, but said that if any complaints show up he's willing to return some of it.

►When Time magazine revealed that the CIA had helped finance Billy Graham's Latine American 'crusade," Mr. Graham said that on his "return to the mainland (USA) (he) would try to find out if the CIA had funded (his) trip without (his) knowledge." Is he a classmate of Norman Thomas?

►Rev. Willie M. Johnson of Bronx, New York, on being indicted in March 1967 on 145 counts of stealing many thousands of dollars in anti-poverty funds explained it by announcing "We'll have plenty to say." He has said nothing since.

Compared to the new morality, the new math is a cinch.

THOMAS: Where did it come from?

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HUGH HAYNIE ...

"I'll Order the Escalation. You Issue a Denial to the Press. And You Think up a New Name for It When They Find Out"

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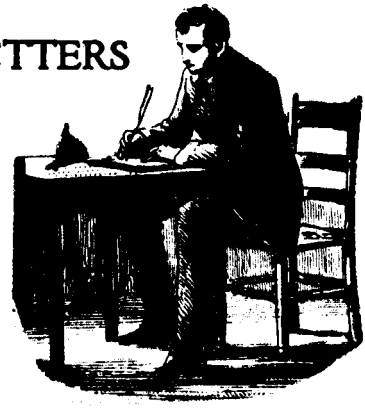
Dear Sir: Vietnam is a long way from Latin America. However, the echoes of the fierce debate now going on do rebound in my little corner of the world and leave me rather disturbed.

First of all, is the very fierceness of the debate. Many of the participants have absolutely no faith in the decency, sincerity, rationality or loyalty of those who disagree with them. Indeed, one runs a certain risk in discussing Vietnam with strangers. The merest hint that one does not believe in every article of "the true faith" (as defined by the other person) may bring down immediate and violent denunciation upon one's head. Debating points follow one another in machinegun fashion, so that it becomes impossible to examine a point. The discussion ceases. One is subject instead to an emotional release. Yet I find it hard to believe that Senator Fulbright has sold out to the Vietcong or that President Johnson desires the napalming of Vietnamese children. Why then imply such things? The special license which people in politics enjoy to exaggerate does not extend this far.



Secondly, the Vietnam debate has created some strange heroes for the American left. Senator Robert Kennedy began his career as counsel to the late and notorious Senator McCarthy's committee. Recently he was discovered to have played a very ambiguous role in the extension of federal wiretapping. His public statements about this role certainly created a little credibility gap between him and me, if no one else. Can the American left really trust Senator Kennedy?

Senator Fulbright was, is and always will be a segregationist. His record on other matters is probably not as good as Senator Sparkman's. from a liberal viewpoint and leaving aside Vietnam. Yet while many objected to Sparkman's "impurity" when Stevenson chose him as a running mate in 1952, they now rally to a man who has little more than one virtue. Why?

Thirdly, many of the participants in the debate assume that Ho Chi Minh can be brought to the negotiating table fairly easily. It is just a matter of stopping the bombing or bombing a little more. Yet will Ho Chi Minh be convinced that easily? There is some evidence that he will be very hard to convince. First of all, he has placed extreme preconditions on negotiations. (If the U. S. were to accept them, it would give away most of its points before even sitting down to bargain.) Secondly, in previous negotiations he was pressured by his allies into giving up some advantages that were already within his grasp militarily. Thus he may mistrust negotiations. Thirdly, he may be counting on the 1968 election campaign in the U. S. being a repetition of 1952, with one candidate committing himself to a truce in order to win the election. Unfortunately, we know very little about what Ho Chi Minh really thinks or what his view of the outside world is. Yet I think that the debaters should make a better attempt to support their assumptions on negotiations.

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Fourthly, those who wish for the U. S. to get out of Vietnam often claim that it is the quickest way to end the bloodshed. This is certainly true as far as military personnel are concerned, but wouldn't civilian bloodshed increase significantly for several years? A U. S. withdrawal would probably be followed by a NLF takeover. There would surely follow a bloody purge of those government officials and religious leaders who had not been able to leave the country. A second purge would be necessary to eliminate southerners in the NLF and permit the northerners to take over. This would undoubtedly provoke guerrilla uprisings by many who might tolerate communism but not Hanoi. Yet more bloodshed! Such things are quite in accord with the regional style. As precedents one can point to Ho's purges (one on taking power, another after a peasant uprising) and the Indonesian purge of communists.

Fifthly, very few of the debaters have devoted much attention to the impact of an NLF victory in the rest of the world. What would these consequences be? Certainly they should be taken into account.

In Latin America, these consequences would be noticeable. Quite a few people regard Vietnam as a test case for a new kind of warfare. If the test is successful, they will be inclined to adopt the techniques used. Not all these people are communists by any means, or even ideological. Some are merely ambitious, frustrated, angry, bitter and/or crazy. But the real trouble is there are a lot of them, and in a few countries the governments should be overthrown. They will have no trouble getting arms. They have an issue. To make matters worse, they may not feel that popular support is a necessary precondition to revolution. A doctrine currently in style says that to make a revolution, one simply revolts. Popular support is picked up as one goes along. Meanwhile, like graduate students who go from one fellowship to another, they go from one guerrilla war-training school to another, waiting to see what will happen in Vietnam.

Many of us would welcome an ideologically oriented guerrilla movement in certain countries, but the consequences of an NLF victory that disturb me are not that but rather a repetition of Columbia. There many years ago, some liberals and conservatives started killing each other, and hapless peasants too, for political reasons. When the political leaders patched things up, the guerrillas became bandits. When Castro began to support them, they became communists. Those he no longer supports have become bandits again. Guerrilla leaders are not famed for their respective ideological positions but for the number of people they have personally murdered. (The soldiers and police which pursue them used to be just as brutal.) What started out as a means to power has become an end in itself.

It is of course urgent to solve the Vietnam problem. But can't this be done without setting off thousands of would be imitations of the NLF in Latin America? It is all very well to be concerned about bloodshed in Southeast Asia, but allow me to remind you that Latin blood is just as precious as Vietnamese blood.

L. A. Changa
San Juan, P. R.

(It is hardly surprising that the debate is fierce. It is hard to be contemplative when death and destruction are taking place at their current rate--without purpose or end so far as some of us can see. We are particularly revulsed by the perversion

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There are some deeply disturbing aspects of the new banana smoking fad. One wonders, for example, whether it might not be part of a plan by the CIA to subsidize United Fruit operations in Latin America. Also, some legal observers believe that any person convicted of banana smoking might lose his right to appeal.

There was even a report out of Cambridge, Mass., indicating that federal agents would move next against apples. Not that apples are bad in themselves, but they lead to bananas. Happily, nothing came of that.

Washington Notes

An official of the Federal Bureau of Narcotics, however, did have this to say to the Washington Post about the banana problem:

"We're concerned about any abuses, of course. It's all part and parcel of what appears to be a refusal to accept a normal way of life."

This frightened me, because I confess to participation in a number of abuses which, like bananas, produce mildly psychedelic effects. These include eating pizza after 2 a. m.; reading the editorial page of the Washington Evening Star; and listening to Paul Harvey while sucking on a sugar cube. Best of all, especially for intensification of color, is to drive Route 1 at night between Washington and Baltimore. Ever since early in my life when I became hooked on "Sgt. Preston of the Yukon," I have been abuse-prone, and the somber thought of the nark spokesman put me to pondering.

I quickly decided that I would increase the normalcy in my life--at a non-inflationary rate of 3% a year. Naturally, with such a goal, I needed guidelines. These reliable indicators of the American norm can be found in abundance. For example, I discovered the following in the course of just a few days:

►The National Rifle Association has urged its 800,000 members to form a civilian posse to help the police maintain law and order.

►The National Guard was called out to prevent fair-housing demonstrators from disrupting the great American tradition of the Kentucky Derby, thus perpetuating another great American tradition: the National Guard's pivotal role in the processes of local government (cf. Watts, Rochester, Chicago, etc.) Some political scientists suggest that the Guard may replace the press as the fourth branch of government.

►A senior Democratic Congressman on the House Armed Services Committee told a high Administration official to "forget the First Amendment" in dealing with draft card burners.

►Labor Secretary Willard Wirtz, when asked whether an administration bill on the railroad labor dispute

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the tired snake slivered long, ungracefully
toward the smashed dead prey (tin plates of
broccoli held up like shields against hunger)

ah, but the weight of it wears down these sots.
leaves just enough strength in their thickveined
arms to strike for the yellow apple
a smiling
fat lady hands out at the end of the line.

-- Robert Bonazzi

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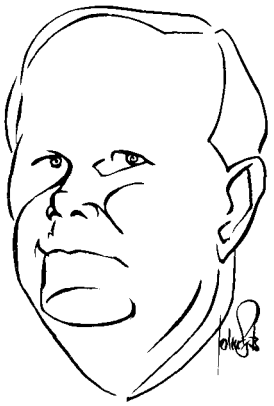
amounted to compulsory arbitration, denied it, pointing out that it merely called for "extended collective bargaining and mediation to finality."

►The war in Vietnam, motivated in part (we are told) by the Administration's horror at the Vietcong's murdering of village chiefs and other key officials is--according to a recent Senate investigation--producing only 100,000 civilian casualties a year.

● Walter Reuther has confessed taking sizable sums from the CIA on behalf of the United Auto Workers Union.

►The New York Times headlined a story: "Goldwater Sides With Johnson on Strategy of Vietnam War."

► Some 60 senators and congressmen, upset recently by the behavior of Messrs. Dodd and Powell, are reported due at the Paris air show. Said House Commerce Committee chairman Har-



STAGGERS: For Some of the Boys

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ley Staggers: "Some of my boys want to go and I think it's appropriate some of them see what's going on in the world. We are concerned with aviation, don't you know?"

It's tough following guidelines like these. You tend to have pretty bad withdrawal symptoms as long as you keep on believing that posses only belong between commercials; that our cities should be able to go through a summer without the National Guard; that the First Amendment is more important than a draft card; that a labor secretary should be understandable; that the war in Vietnam is morally wrong, diplomatically stupid, and militarily futile; that Richard Helms should not be included in the UAW's checkoff; that Goldwater was the guy we voted against because of his foreign policy; and that Messrs. Dodd and Powell have as much right as any congressman to go to the Paris air show.

But I'm still trying. In the meanwhile, would you please pass the bananas?

-- (s. s.)

Letters continued. . . . .

of democratic precepts that has occurred in order to find a justification of the war. We may soon become little better than any of those great powers of the world the greater part of whose contribution to history has been misery and not truth. Your second point is good. Your third ignores the facts that we must sometimes try to do right even when it is difficult. On the fourth point, it would take one hell of a purge to match current civilian casualties in the war. Your final comment may be true, but is hardly a rationale for as brutal a conflict as is now taking place. Too much of the Administration's policy has been based upon assumptions backed up by possibilities, supported by hypotheses. --s. s.)

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